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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,289	02/11/2002	Fides P. Baldesberger	000364.00123	9828

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EXAMINER

KRAMER, DEAN J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,289

Applicant(s)

BALDESBERGER, FIDES P.

Examiner

Dean J. Kramer

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-16 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 17-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The amendment filed June 19, 2003 and the remarks presented therewith have been carefully considered. However, they are not deemed to be fully persuasive.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-16 and 22-25, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sergeant in view of Kaufman.

Sergeant shows a pair of tweezers comprising two legs (12,14) connected with each other at their upper ends forming an apex area (2) and are capable of reversible engagement at their opposite ends (16B,18B) upon manual closure pressure (see Fig.

2). These tweezers are fabricated as an extrusion profile sliced into multiple tweezer mechanisms (see col. 3, lines 19-28). The extruded Sergeant tweezers are not specifically disclosed as being formed from "light metal".

However, Kaufman shows a one-piece tweezer device that can be formed of various elastic materials such as "spring steel" or "aluminum" (see col. 3, lines 62-66).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the Sergeant tweezers from an elastic light metal,

such as spring steel or aluminum, as taught by Kaufman as an alternative yet functionally equivalent means of creating a resilient and durable set of tweezers.

It is pointed out that the apex (2) of Sergeant's tweezers is shown to be at least 20% larger than the thickness of leg portions (12,14). Likewise, bulge portions (12A,14A) are at least 30% greater in size than leg portions (12,14).

Regarding claims 12, 13, 22, and 23, the closing force required to close the resulting modified Sergeant tweezers would vary depending on the exact type of metal used and the thickness of the apex and legs thereof.

3. Claim 22, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over either Seyfriedt in view of Kaufman.

Seyfriedt shows metal tweezers having a generally enlarged apex region relative to the leg thickness thereof but does not specifically disclose the type of metal from which it is manufactured nor closure pressure required to bring the free ends of the legs to a closed position. The Seyfriedt patent only broadly discloses that its tweezers be formed from a "resilient spring metal" (page 1, line 32).

Kaufman, as was presented above in section 2, discloses an integrally formed pair of tweezers made from one of several mentioned materials including spring steel or aluminum.

It would have been obvious to a person having ordinary skill in the art to dimension the apex of the Seyfriedt tweezers and form the tweezers out of sufficiently light metal, such as aluminum or spring steel as taught by Kaufman, so that it would

take at least 150 g. of force to close the tweezers in order for easy manual manipulation thereof.

4. Claim 23, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Seyfriedt, as set forth above in regard to claim 22, and further in view of British Patent # 2,035,187.

The modified Seyfriedt tweezers were presented supra and would substantially contain all of the structural limitations as broadly as recited in claim 23 except for the legs having enlarged bulge portions along their length.

However, British Patent # 2,035,187 shows a pair of tweezers having a bulge or projection (16a,16b) extending inwardly from each leg so as to limit deformation of the tweezers upon manual compression thereof.

It would have been obvious to one of ordinary skill in the art to provide a bulge on each of the modified Seyfriedt legs similar to that shown in the British ('187) patent in order to limit deformation of the legs upon manual compression.

Allowable Subject Matter

5. Claims 17-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Drawings

6. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 6-19-03 have been approved by the examiner. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Dean J. Kramer 7-17-03
Primary Examiner
Art Unit 3652

djk
July 17, 2003